



## STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	<b>04/25/00</b>	Bill No:	<b>AB 2587</b>
Tax:	<b>Sales and Use</b>	Author:	<b>Cardenas, et al.</b>
Board Position:	<b>Support</b>	Related Bills:	

### **BILL SUMMARY:**

This bill would 1) provide a sales and use tax exemption for the sale and purchase of blood glucose monitors whether or not the devices are furnished by a registered pharmacist, and 2) expand the Board's regulation relating to the exemption for sales and purchases of lancets and blood glucose test strips, by eliminating the requirement that these items be furnished by a registered pharmacist.

### **ANALYSIS:**

#### Current Law:

Under existing law, except where specifically exempted by statute, sales or use tax is imposed on all retailers for the privilege of selling tangible personal property at retail in this state. Section 6369 of the Sales and Use Tax Law provides that sales of medicine, when prescribed and sold or furnished under certain conditions for the treatment of a human being, are exempt from sales and use tax. Although an item, device, or apparatus may be prescribed by a physician for the treatment of a patient, for the sale to be exempt from tax, the item must qualify as a "medicine" under Section 6369.

Under this section, certain named devices, instruments, apparatus, devices, and physical equipment, are included within the term "medicine" and therefore qualify for the exemption from tax. For example, the sale or use of insulin and insulin syringes furnished by a registered pharmacist for treatment of diabetes are specifically included within the term "medicine" and therefore currently qualify for an exemption from tax.

The Board's Regulation 1591.1, *Specific Medical Devices, Appliances, and Related Supplies*, interprets and makes specific the provisions of Section 6369. Under the regulation, sales and purchases of glucose test strips and skin puncture lancets *furnished by a registered pharmacist* that are used by a diabetic patient to determine his or her own blood sugar level and the necessity for and amount of insulin and/or other diabetic control medication needed to treat the disease in accordance with a physician's instructions are considered an integral and necessary active part of the use of insulin and insulin syringes and, accordingly, are not subject to sales or use tax. Sales and purchases of these items over-the-counter without being furnished by a registered pharmacist, however, remain subject to tax.

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position*

Proposed Law:

This bill would amend Section 6369 of the Sales and Use Tax Law to include within the term “medicines,” blood glucose monitors, test strips, and lancets furnished to a person for the blood sugar testing and treatment of diabetes as directed by a physician, whether or not the devices are furnished by a registered pharmacist.

The provisions of the bill would become operative on the first day of the first calendar quarter commencing more than 90 days of date the bill becomes enacted.

**COMMENTS:**

1. **Sponsor and purpose of the bill.** According to the author’s office, the sponsors of this measure are the American Diabetes Association and the California Pharmacists Association. Its purpose is to treat testing equipment in the same manner as prescription medicine. Many diabetics are required to monitor their blood sugar levels daily, as a way of monitoring the disease. This requires testing equipment which can be an expensive, ongoing cost to diabetics who have no choice but to purchase it. The proposed exemption would therefore assist in lowering costs to those who must purchase these items.
2. **The April 25, 2000 amendments delete the requirement that the items be furnished by a registered pharmacist in order for the sale or purchase to be exempt from tax.** In the previous version of this measure, in order to be exempt from tax, a registered pharmacist would have been required to furnish the items proposed to be exempted. Since blood glucose monitors, as well as test strips, and lancets can be purchased over-the-counter, some purchasers may not have received the benefit of the exemption. These amendments address this issue.
3. **Bill would not materially affect the Board’s administration of the Sales and Use Tax Law.** From an administrative standpoint, the Board is already charged with the responsibility of verifying the numerous, and sometimes obscure, exemptions claimed under Section 6369 (due to technological advances in the medical industry, it is sometimes difficult to make distinctions as to whether or not certain devices fit within the scope of the current exemption). Adding these items within the scope of the exemption would therefore not materially affect the Board’s workload in this area.

**COST ESTIMATE:**

Some administrative costs would be incurred in notifying retailers, revising the Board’s applicable regulation and responding to inquiries. An estimate of these costs is pending.

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**REVENUE ESTIMATE:****Background, Methodology, and Assumptions**

The California Department of Health Services has estimated that there are 1 million diagnosed cases of diabetes in California. Ten percent, or 100,000 of these cases, are type 1 diabetics. Individuals take daily injections of insulin and are instructed to use blood glucose monitors. The remaining 90%, or 900,000, are type 2 diabetics. Some in this type take insulin injections, but most do not. A survey done by the Department of Health Services showed that of those adults surveyed who were diagnosed with diabetes, 25% were taking insulin. All of those patients that are taking insulin are instructed to monitor their blood glucose. Of the remaining 75%, the Department estimates that half are encouraged to use the monitors. Current medical opinion stresses that regardless of treatment, people who have diabetes need to monitor their disease, and blood glucose monitors are the only method for doing that.

Currently, costs of monitors range between \$75 to \$130. If all 100,000 type 1 diabetics have monitors and if half of the type 2 diabetics have monitors (450,000), then 550,000 monitors have been sold in California. If new monitors are purchased every five years at an average cost of \$100, the average annual sales of monitors are estimated to be \$11 million. ( $\$100/5 \times 550,000 = \$11 \text{ million.}$ )

**Revenue Summary**

The annual revenue impact from exempting the \$11 million in sales of blood glucose monitors from the sales and use tax would be as follows:

	<u>Revenue Effect</u>
State loss (5%)	\$550,000
Local loss (2.25%)	247,500
Transit loss (0.67%)	<u>73,700</u>
Total	<u><u>\$ 871,200</u></u>

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